

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-01574-AJN**

The Innocence Project, Inc. v. National Museum of Health and
Medicine et al

Assigned to: Judge Alison J. Nathan

Cause: 05:552 Freedom of Information Act

Date Filed: 02/20/2019

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

The Innocence Project, Inc.

represented by **Jonathan Matthew Manes**
University at Buffalo School of Law
507 O'Brian Hall, North Campus
Buffalo, NY 14260-1100
716-645-6222
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ATTORNEY TO BE NOTICED

V.

Defendant

**National Museum of Health and
Medicine**

represented by **Anthony Jan-Huan Sun**
U.S. Attorney Office SDNY
86 Chambers Street
New York, NY 10007
212-637-2810
Fax: 212-637-2786
Email: anthony.sun@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Defense Health Agency

represented by **Anthony Jan-Huan Sun**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Department of Defense

represented by **Anthony Jan-Huan Sun**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Laura Cutter
*Archivist of the National Museum of
Health and Medicine, in her official
capacity*

represented by **Anthony Jan-Huan Sun**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

David Shackelford
*Curator of the National Museum of
Health and Medicine, in his official
capacity*

represented by **Anthony Jan-Huan Sun**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Adrianne Noe
*Director of the National Museum of
 Health and Medicine, in her official
 capacity*

represented by **Anthony Jan–Huan Sun**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Raquel Bono
*Director of the Defense Health Agency, in
 her official capacity*

represented by **Anthony Jan–Huan Sun**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Patrick Shanahan
*Acting Secretary of Defense, in his
 official capacity*

represented by **Anthony Jan–Huan Sun**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/20/2019	<u>1</u>	FILING ERROR – DEFICIENT PLEADING – FILED AGAINST PARTY ERROR – COMPLAINT against Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrianne Noe, David Shackelford, Patrick M Shanahan. (Filing Fee \$ 400.00, Receipt Number ANYSDC–16373833) Document filed by The Innocence Project, Inc.. (Attachments: # <u>1</u> Exhibit A–FOIA Request, # <u>2</u> Exhibit B–DHA email on 4/20/18, # <u>3</u> Exhibit C–DHA email on 6/26/18, # <u>4</u> Exhibit D–Innocence Project letter of 2/13/19, # <u>5</u> Exhibit E–DHA response of 2/14/19, # <u>6</u> Exhibit F–Innocence Project letter on 2/18/19)(Manes, Jonathan) Modified on 2/21/2019 (jgo). (Entered: 02/20/2019)
02/20/2019	<u>2</u>	CIVIL COVER SHEET filed. (Manes, Jonathan) (Entered: 02/20/2019)
02/20/2019	<u>3</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to National Museum of Health and Medicine; Defense Health Agency; Department of Defense; Laura Cutter; David Shackelford; Adrianne Noe; Raquel Bono; Patrick Shanahan, re: <u>1</u> Complaint,, Document filed by The Innocence Project, Inc.. (Attachments: # <u>1</u> Defense Health Agency, # <u>2</u> Department of Defense, # <u>3</u> Laura Cutter, # <u>4</u> David Shackelford, # <u>5</u> Adrianne Noe, # <u>6</u> Raquel Bono, # <u>7</u> Patrick Shanahan)(Manes, Jonathan) Modified on 2/21/2019 (jgo). (Entered: 02/20/2019)
02/20/2019	<u>4</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by The Innocence Project, Inc..(Manes, Jonathan) (Entered: 02/20/2019)
02/21/2019		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Jonathan Matthew Manes. The party information for the following party/parties has been modified: Laura Cutter; David Shackelford; Adrianne Noe; Raquel Bono; Patrick Shanahan. The information for the party/parties has been modified for the following reason/reasons: party name contained a typographical error; party text was omitted;. (jgo) (Entered: 02/21/2019)
02/21/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT PLEADING. Notice to Attorney Jonathan Matthew Manes to RE–FILE Document No. <u>1</u> Complaint. The filing is deficient for the following reason(s): due to party modification, the wrong party/parties whom the pleading is against were selected;. Re–file the pleading using the event type Complaint found under the event list Complaints and Other Initiating Documents – attach the correct signed PDF – select the individually named filer/filers – select the individually named party/parties the pleading is against. (jgo) (Entered: 02/21/2019)
02/21/2019		***NOTICE TO ATTORNEY REGARDING CIVIL CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Jonathan Matthew Manes. The following case opening statistical information was erroneously selected/entered: Cause of Action code 05:551;. The following correction(s) have

		been made to your case entry: the Cause of Action code has been modified to 05:552;. (jgo) (Entered: 02/21/2019)
02/21/2019		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Alison J. Nathan. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (jgo) (Entered: 02/21/2019)
02/21/2019		Magistrate Judge Barbara C. Moses is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (jgo) (Entered: 02/21/2019)
02/21/2019		Case Designated ECF. (jgo) (Entered: 02/21/2019)
02/21/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Jonathan Matthew Manes to RE–FILE Document No. <u>3</u> Request for Issuance of Summons. The filing is deficient for the following reason(s): each Request for Issuance of Summons must be filed separately OR one PDF may be used with a 'rider' attached;. Re–file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (jgo) (Entered: 02/21/2019)
03/05/2019	<u>5</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: This case has been assigned to me for all purposes. It is hereby ORDERED that counsel for all parties appear for an initial pretrial conference with the Court on Friday, July 19, 2019 at 3:30pm in Courtroom 906 of the United States District Court for the Southern District of New York, Thurgood Marshall U.S. Courthouse at 40 Foley Square, New York, New York. Parties ordered to submit via ECF proposed case management plan and joint letter seven days before conference. (As further set forth in this Order.) SO ORDERED. Initial Conference set for 7/19/2019 at 03:30 PM in Courtroom 906, 40 Centre Street, New York, NY 10007 before Judge Alison J. Nathan. (Signed by Judge Alison J. Nathan on 3/5/2019) (kv) (Entered: 03/05/2019)
03/06/2019	<u>6</u>	COMPLAINT against Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrienne Noe, David Shackelford, Patrick Shanahan. Document filed by The Innocence Project, Inc.. (Attachments: # <u>1</u> Exhibit Exhibit A – FOIA Request, # <u>2</u> Exhibit Exhibit B – DHA Email on 4/20/18, # <u>3</u> Exhibit Exhibit C – DHA Email on 6/26/18, # <u>4</u> Exhibit Exhibit D – Innocence Project letter of 2/13/19, # <u>5</u> Exhibit Exhibit E – DHA Response of 2/14/19, # <u>6</u> Exhibit Exhibit F – Innocence Project Letter on 2/18/19)(Manes, Jonathan) (Entered: 03/06/2019)
03/06/2019	<u>7</u>	REQUEST FOR ISSUANCE OF SUMMONS as to National Museum of Health and Medicine, re: <u>6</u> Complaint,,. Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 03/06/2019)
03/06/2019	<u>8</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Defense Health Agency, re: <u>6</u> Complaint,,. Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 03/06/2019)
03/06/2019	<u>9</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Department of Defense, re: <u>6</u> Complaint,,. Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 03/06/2019)
03/06/2019	<u>10</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Laura Cutter, re: <u>6</u> Complaint,,. Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 03/06/2019)
03/06/2019	<u>11</u>	REQUEST FOR ISSUANCE OF SUMMONS as to David Shackelford, re: <u>6</u> Complaint,,. Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 03/06/2019)

03/06/2019	<u>12</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Adrienne Noe, re: <u>6</u> Complaint,, Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 03/06/2019)
03/06/2019	<u>13</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Raquel Bono, re: <u>6</u> Complaint,, Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 03/06/2019)
03/06/2019	<u>14</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Patrick Shanahan, re: <u>6</u> Complaint,, Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 03/06/2019)
03/07/2019	<u>15</u>	ELECTRONIC SUMMONS ISSUED as to National Museum of Health and Medicine. (dnh) (Entered: 03/07/2019)
03/07/2019	<u>16</u>	ELECTRONIC SUMMONS ISSUED as to Defense Health Agency. (dnh) (Entered: 03/07/2019)
03/07/2019	<u>17</u>	ELECTRONIC SUMMONS ISSUED as to Department of Defense. (dnh) (Entered: 03/07/2019)
03/07/2019	<u>18</u>	ELECTRONIC SUMMONS ISSUED as to Laura Cutter. (dnh) (Entered: 03/07/2019)
03/07/2019	<u>19</u>	ELECTRONIC SUMMONS ISSUED as to David Shackelford. (dnh) (Entered: 03/07/2019)
03/07/2019	<u>20</u>	ELECTRONIC SUMMONS ISSUED as to Adrienne Noe. (dnh) (Entered: 03/07/2019)
03/07/2019	<u>21</u>	ELECTRONIC SUMMONS ISSUED as to Raquel Bono. (dnh) (Entered: 03/07/2019)
03/07/2019	<u>22</u>	ELECTRONIC SUMMONS ISSUED as to Patrick Shanahan. (dnh) (Entered: 03/07/2019)
03/11/2019	<u>23</u>	ORDER: Due to the Court's calendar, the initial pretrial conference currently scheduled for Friday, July 19, 2019 at 3:30 p.m. is hereby rescheduled to Friday, July 26, 2019 at 3:15 p.m. Initial Conference set for 7/26/2019 at 03:15 PM before Judge Alison J. Nathan. (Signed by Judge Alison J. Nathan on 3/11/2019) (kv) (Entered: 03/11/2019)
04/03/2019	<u>24</u>	AFFIDAVIT OF SERVICE. Raquel Bono served on 3/15/2019, answer due 4/5/2019; Laura Cutter served on 3/15/2019, answer due 4/5/2019; Defense Health Agency served on 3/15/2019, answer due 4/5/2019; Department of Defense served on 3/15/2019, answer due 4/5/2019; National Museum of Health and Medicine served on 3/15/2019, answer due 4/5/2019; Adrienne Noe served on 3/15/2019, answer due 4/5/2019; David Shackelford served on 3/15/2019, answer due 4/5/2019; Patrick Shanahan served on 3/15/2019, answer due 4/5/2019. Service was made by Mail. Document filed by The Innocence Project, Inc.. (Attachments: # <u>1</u> Exhibit A – Proof of Summons –Receipts of Registered Mail)(Manes, Jonathan) (Entered: 04/03/2019)
04/18/2019	<u>25</u>	NOTICE OF APPEARANCE by Anthony Jan–Huan Sun on behalf of Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrienne Noe, David Shackelford, Patrick Shanahan. (Sun, Anthony) (Entered: 04/18/2019)
04/19/2019	<u>26</u>	LETTER MOTION for Extension of Time to File Answer re: <u>6</u> Complaint,, addressed to Judge Alison J. Nathan from AUSA Anthony J. Sun dated 4/19/2019. Document filed by Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrienne Noe, David Shackelford, Patrick Shanahan.(Sun, Anthony) (Entered: 04/19/2019)
04/19/2019	<u>27</u>	ORDER granting <u>26</u> Letter Motion for Extension of Time to Answer re <u>6</u> Complaint. SO ORDERED. Raquel Bono answer due 5/22/2019; Laura Cutter answer due 5/22/2019; Defense Health Agency answer due 5/22/2019; Department of Defense answer due 5/22/2019; National Museum of Health and Medicine answer due 5/22/2019; Adrienne Noe answer due 5/22/2019; David Shackelford answer due 5/22/2019; Patrick Shanahan answer due 5/22/2019 (Signed by Judge Alison J. Nathan on 4/19/2019) (kv) (Entered: 04/19/2019)

05/21/2019	<u>28</u>	CONSENT MOTION for Extension of Time to File Answer re: <u>6</u> Complaint,, . Document filed by Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrienne Noe, David Shackelford, Patrick Shanahan.(Sun, Anthony) (Entered: 05/21/2019)
05/23/2019	<u>29</u>	ORDER granting <u>28</u> Letter Motion for Extension of Time to Answer re <u>6</u> Complaint. SO ORDERED. Raquel Bono answer due 6/21/2019; Laura Cutter answer due 6/21/2019; Defense Health Agency answer due 6/21/2019; Department of Defense answer due 6/21/2019; National Museum of Health and Medicine answer due 6/21/2019; Adrienne Noe answer due 6/21/2019; David Shackelford answer due 6/21/2019; Patrick Shanahan answer due 6/21/2019. (Signed by Judge Alison J. Nathan on 5/22/2019) (kv) (Entered: 05/23/2019)
06/20/2019	<u>30</u>	CONSENT LETTER MOTION for Extension of Time to File Answer re: <u>6</u> Complaint,, addressed to Judge Alison J. Nathan from AUSA Anthony J. Sun dated 6/20/2019. Document filed by Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrienne Noe, David Shackelford, Patrick Shanahan.(Sun, Anthony) (Entered: 06/20/2019)
06/21/2019	<u>31</u>	ORDER granting <u>30</u> Letter Motion for Extension of Time to Answer re <u>6</u> Complaint. No further extensions. SO ORDERED. Raquel Bono answer due 7/8/2019; Laura Cutter answer due 7/8/2019; Defense Health Agency answer due 7/8/2019; Department of Defense answer due 7/8/2019; National Museum of Health and Medicine answer due 7/8/2019; Adrienne Noe answer due 7/8/2019; David Shackelford answer due 7/8/2019; Patrick Shanahan answer due 7/8/2019. (Signed by Judge Alison J. Nathan on 6/20/2019) (kv) (Entered: 06/21/2019)
07/08/2019	<u>32</u>	ANSWER to <u>6</u> Complaint,, Document filed by Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrienne Noe, David Shackelford, Patrick Shanahan.(Sun, Anthony) (Entered: 07/08/2019)
07/19/2019	<u>33</u>	JOINT LETTER addressed to Judge Alison J. Nathan from AUSA Anthony J. Sun dated 7/19/2019 re: letter re Initial Pretrial Conference and proposed order. Document filed by Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrienne Noe, David Shackelford, Patrick Shanahan. (Attachments: # <u>1</u> Text of Proposed Order)(Sun, Anthony) (Entered: 07/19/2019)
07/24/2019	<u>34</u>	NOTICE of Law Student Intern Appearance Form. Document filed by The Innocence Project, Inc.. (Manes, Jonathan) (Entered: 07/24/2019)
07/25/2019	<u>35</u>	MEMO ENDORSEMENT on re: <u>33</u> Letter, filed by Defense Health Agency, Department of Defense, Raquel Bono, Laura Cutter, Adrienne Noe, Patrick Shanahan, National Museum of Health and Medicine, David Shackelford. ENDORSEMENT: The initial pretrial conference previously scheduled for July 26, 2019 is hereby adjourned sine die. By September 30, 2019, the parties shall file a statusupdate concerning next steps in this matter. (Signed by Judge Alison J. Nathan on 7/25/2019) (cf) (Entered: 07/25/2019)
07/25/2019	<u>36</u>	PRIVACY ACT ORDER AND PROTECTIVE ORDER...regarding procedures to be followed that shall govern the handling of confidential material... (As further set forth in this Order.) (Signed by Judge Alison J. Nathan on 7/25/2019) (cf) (Entered: 07/25/2019)
10/15/2019	<u>37</u>	ORDER re: <u>35</u> Memo Endorsement. According to the Court's Order dated July 25, 2019, a status update was due by September 30, 2019. Dkt. No. 35. As of the date of this Order, the Court is not in receipt of this status update. The parties are hereby ordered to submit the status update by October 21, 2019. SO ORDERED. (Signed by Judge Alison J. Nathan on 10/15/2019) (kv) (Entered: 10/15/2019)
10/16/2019	<u>38</u>	MEMO ENDORSEMENT ON LAW STUDENT INTERN APPEARANCE FORM: ENDORSEMENT: I certify that this student: John S. Zakour (a) has completed at least two semesters of law school work and is a participant in an approved clinical program;(b) is qualified, to the best of my knowledge, to provide the legal representation permitted by this rule. So Ordered (Signed by Judge Alison J. Nathan on 10/15/2019) (js) (Entered: 10/16/2019)

10/17/2019	<u>39</u>	STATUS REPORT. <i>Joint Status Report and Plaintiff's Unopposed Request for an Order Authorizing Disclosure of One Document Subject to the Protective Order</i> Document filed by The Innocence Project, Inc..(Manes, Jonathan) (Entered: 10/17/2019)
10/17/2019	<u>40</u>	PROPOSED ORDER. Document filed by The Innocence Project, Inc.. Related Document Number: <u>39</u> . (Manes, Jonathan) Proposed Order to be reviewed by Clerk's Office staff. (Entered: 10/17/2019)
10/17/2019	<u>41</u>	LETTER addressed to Judge Alison J. Nathan from AUSA Anthony J. Sun dated 10/17/2019 re: Plaintiff's request for an order from the Court. Document filed by Raquel Bono, Laura Cutter, Defense Health Agency, Department of Defense, National Museum of Health and Medicine, Adrienne Noe, David Shackelford, Patrick Shanahan.(Sun, Anthony) (Entered: 10/17/2019)
10/17/2019		***NOTICE TO COURT REGARDING PROPOSED ORDER. Document No. 40 Proposed Order was reviewed and approved as to form. (dt) (Entered: 10/17/2019)
10/21/2019	<u>42</u>	ORDER: The parties are hereby ordered to show cause why the Court should not grant an order that only allows Plaintiff to file the document in question under seal in its client's state post-conviction proceeding. This order would not prevent the court in the state post-conviction proceeding from ordering further disclosure of the document. The parties shall submit a joint filing by October 28, 2019. To the extent the parties have different views on this matter, they may supplement the joint filing with letter submissions. SO ORDERED. (Signed by Judge Alison J. Nathan on 10/21/2019) (kv) (Entered: 10/21/2019)